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By-Farley, Philip G.

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By focusing on the beginnings of slavery in America, this social studies unit raises the issue of whether prejudice against the American Negro is a result of economic and nonracial factors or whether it originated in basic instincts and cultural conditioning which preceded and aggravated his enslavement. To define both sides of the question, the first section of the unit uses the writings of two contemporary historians--J. H. Russell and Wesley Craven. The second section examines excerpts from writings and legal documents of 17th-century America to clarify the attitudes toward the Negro at that time, to show the commerciality of both Puritan and Southerner, and to indicate how the law of slavery applied to Negro and white. The third section compares the slave system in British Colonial America with slavery in Latin America. The final section provides two interpretations of the unit's main focus, "Which is the central fact of Negro history in America--slavery or color?" [Not available in hard copy due to marginal legibility of original document.] (Author/JB)

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EXPERIMENTAL MATERIAL
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TEACHER'S MANUAL

THE ORIGINS OF RACIAL DISCRIMINATION IN AMERICA:

SLAVERY OR COLOR?

Philip G. Farley
Pendleton High School
Pendleton, Oregon

This material has been produced
by the
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NOTE TO THE PUBLIC DOMAIN EDITION

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The units have been used experimentally in selected schools throughout the country, in a wide range of teaching/learning situations. The results of those experiments will be incorporated in the Final Report of the Project on Cooperative Research grant H-168, which will be distributed through ERIC.

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This unit was initially prepared in the summer of 1965

INTRODUCTION

This unit is designed to provoke thought and discussion about the origins of racial discrimination in America. The historical approach should tend to invoke more intelligent and objective thinking than is usually possible on a question so highly charged with emotion.

The question is whether discrimination arose from slavery or from racial prejudice. One interpretation would hold that a system of slavery evolved merely because the English colonists needed a labor force in the course of their economic development. Given the plantation economy and the monetary rewards of raising staples, it was to be expected that the strangest and latest group to arrive on American shores would be reduced to slavery. There was nothing racial about it. Racial discrimination did not cause the enslavement of the Negro, but rather racial prejudice leading to discrimination arose out of the experience of slavery.

The conflicting version of the origins of discrimination is just the reverse. It holds that prejudice and the belief in Negro inferiority existed before slavery was formally instituted. Slavery was, in fact, the result of Englishmen discriminating against the black outlander. Seen in this light, slavery was not the product of historical development but was instead the product of racial prejudice.

To examine this question, the unit studies the system of servitude and slavery as it emerged in British America and compares this with the slave system which developed in Latin America.

SECTION I

THE ISSUE RAISED

The point of the first section is to provide the student with a frame of reference into which he can fit the evidence he encounters in the remainder of the unit. Read closely, these two historians present conflicting interpretations which should guide the students' inquiry throughout the remainder of the unit.

John Russell is arguing that, contrary to popular opinion, Negro slavery did not begin in 1619. Rather, the Negro faced the same condition of servitude as did the white servant. The laws, in fact, described him as a "servant," and the word "slave" did not begin to appear with any frequency until long after the introduction of the Negro to America. Racial prejudice was not a factor. The slow, unsteady course of the evolution of slave law late in the seventeenth century indicates a matter-of-fact attempt to deal with a labor force ideally suited to the large scale production of staples.

Wesley Craven argues the opposite position. He maintains that prejudice existed in British America long before slave law came into being and points to legislation passed in the Bermudas and to separate classifications for Negroes as evidencing discrimination against the Negro. Implicit here is the argument that attitudes of prejudice existed toward the Negro and were instrumental in first setting him apart and later in causing his enslavement.

How does one lead students to grasp these implications? One suggestion might be to give the Introduction and the two interpretations in one assignment. Then the reading of Section I could be directed toward the over-all question of the unit: system of labor or racial prejudice. The course of the discussion might proceed better if the students were asked to summarize, in a paragraph, both readings indicating which of the two men is most convincing in answering the unit's question.

There may also be time to raise another question, which is why an understanding of the origins of slavery is important in modern America--or, put another way, why is the unit important to a student's understanding of his own world. Given the racial question in America today, how is the historian contributing to a better understanding of problems caused by race? The discussion could be directed to the role of history and the historian's part in interpreting the past in such a way as to shed light on today's problems. If Russell's interpretation is correct, color prejudice is of relatively recent origin, and slavery was not instituted because of a belief in Negro inferiority. Craven, on the other hand, sees prejudice as being of a much longer duration. Seen in this light, the question for debate is in essence whether racial prejudice is a result of historical conditioning or derives from a basic instinct. On one's answer to this question depends a good deal of how he looks upon present racial conflict in the United States, what tactics he believes most likely to produce change, and what his expectations are as to ultimate results.

SECTION II

THE NEGRO IN SEVENTEENTH CENTURY AMERICA

The question having been posed, Section II seeks to provide documents which will give the student the opportunity to gather supporting evidence for each side of the question.

Part A is intended to show the value of the Negro as both servant and slave--a very practical matter of economics. The first two readings reflect how commercial the Puritans were when it came to the furtherance of their enterprises. By 1708, however, the tone has changed (Doc. 6) because by this time Negro labor in New England has not proved profitable.

Documents 3-5 show a different situation prevailing in the

South. Planters who were engaging in large scale staple production needed labor desperately. Documents 4 and 5 clearly show that Negro slavery is proving to be cheaper and more efficient than white servitude. Thus Part A supports the contention that Negro slavery could well have evolved in the normal operation of a free enterprise system as the answer to the planter's labor problem. Suggested questions for discussion:

1. Given a capitalistic system, such as existed in the Southern colonies, is it natural to expect planters to be concerned with costs of production?

2. If you lived in Virginia in the seventeenth century would you employ the cheapest most efficient labor?

Part B swings the student to the other side of the question. These documents invite the student to see the Negro through the eyes of seventeenth century Englishmen. Here the emphasis is not a matter of historical development which can be clearly weighed and traced, as was the case in the displacement of white servants by Negro labor. Attitudes involve the feelings of men, and however difficult they may be to assess, the fact remains they do play a part in determining the course of history.

The question the student must try to answer is whether he can find evidence of prejudice--that the Negro occupies a lower plane than Europeans do. The first three documents may well reflect this feeling. Wesley Craven used this evidence to prove a denial of three rights basic to liberty, the rights to free movement, to bear arms, and to engage in trade. Add to this the fact that close relations existed between the Bermudas and Virginia, and it is possible to make a case for prejudice as the cause of slavery. Document 4 treats the Negroes as merchandise rather than men. Numbers 5 and 6 reflect the attitudes of a New Englander whose religious views, it should be pointed out, emphasized the inequality of men whatever their color.

Documents 7-9 consist of court cases where again students should be required to read the cases for evidence of different treatment for Negroes. Certainly in 7 the case of Re Davis and Re Sweat reflect the English horror of miscegenation. Re Negro John Punch is a case where the Negro runaway receives unusual punishment as compared to that received by white servants. Mrs. Jane Fenwick's Joynture (8) clearly indicates that the state of servitude of the Negroes mentioned in the deed included their children. If servitude was hereditary in this case, then one of the attributes of slavery was present. The other cases include deeds, evidence of cruelty to Negroes and other servants, and cases where Negro servants gained their freedom. Documents 9 and 10 reflect religious attitudes toward the Negro. Number 10 is the first anti-slavery pronouncement by a group in America.

Part C returns the student once again to historical development. The documents in this part present evidence of formal

recognition of the slave status of the Negro in the late seventeenth century.

Document 1 provides background for an understanding of the evolution of legal slavery. James Ballagh emphasizes the absence of slave statutes in English law: when the first Negroes arrived in Virginia they were not, in the eyes of the English law, slaves. The first document recognizing lifetime servitude is Document 4. Here the Virginia legislature used the term ". . . negroes who are incapable of making satisfaction by the addition of time." And Maryland in 1663 is more direct in stating that Negroes are to serve for life. Strangely enough, Puritan Massachusetts was the first colony to pass statutes concerning slavery (2-3).

Both Documents 1 and 5 should drive home to the student the slow, uncertain course of slave law which, if it did not create the institution, certainly recognized and defined its existence in the 1660's. The reason for this, as Ballagh says, was the need for legal uniformity in view of "the varying practices of the judiciary." Once slavery was recognized, the statutes proceeded to limit further the rights of Negroes, until Negroes were defined as real property and then as chattels.

SECTION III

SLAVERY IN ANOTHER CULTURE

This section takes the student outside his own culture to that of Latin America where a comparable system of slavery seems to have produced deviations from the American style. In attempting to account for the different character of slavery south of the border, the student should address himself to the question: what factors account for the different nature of slavery in South America?

The reading from Stanley Elkins and Frank Tannenbaum are an examination of American and Latin American slavery. In Spanish America, slavery supposedly was not as harsh as in British America. Elkins and Tannenbaum attribute this difference primarily to three influences: a long acquaintance with multi-racial slavery which found expression in an elaborate slave code that recognized the slave as a human being; the intervention of the Roman Catholic Church between master and slave on behalf of the religious rights of the slave; and lastly the small number of Spanish and Portugese settlers who came to the New World and the consequent labor shortage which conspired to raise the status of the Negro in Latin America above that of his North American counterpart. There was as a result, according to Elkins, a "dimness of line between the slave and free portions of society, . . . a confusing promiscuity of color, such as would never have been thinkable in our own country."

Documents 2 and 4 in Part A present the student further evidence with which he may construct for himself the comparison which

Elkins and Tannenbaum draw. The implications of the comparison they draw are of course profound and might give rise to an interesting discussion of the Negro revolution of our own time. What they are suggesting, of course, is that slavery took the course it did in North America because of the absence of such institutions as an established church and an absolute monarch which could intervene between slave and master. The very individualism of our society, and the fact that there were no authoritarian institutions in it, thus gave rise to a greater and more permanent inequality in the relationship between human beings.

In Part B Marvin Harris, an anthropologist, cautions against a too-easy acceptance of the institutional explanation of differences which Professor Elkins and Tannenbaum have given. The Anglo-Saxon tradition of equality, he argues, weighed on the other side of the balance; and had material conditions warranted, Latin masters would have overcome institutional restraints as easily as did their Northern counterparts.

SECTION IV

SLAVERY OR COLOR, TWO INTERPRETATIONS

The concluding section presents not only the latest research on the question but a much fuller treatment.

A great deal of credit must go to the Handlins for having stimulated new interest in the problem of the origins of slavery. According to the Handlins, servitude in some form was common to all classes in the early colonies and in England. If the word "slave" was used occasionally for the Negro, it was also used to designate the status of Irish servants and others of low estate. The origins of Negro slavery are to be found in the southern labor system. Given the great demand for cheap labor, the enslavement of the Negro was caused not by race but simply by the fact that the blacks were strangers, an alien group with "rude manners," different standards of morality, and strange languages. Added to this was the fact that the Negro's coming had been involuntary and that whatever happened to him would not decrease the numbers of Negroes who would follow. The white servants, on the other hand, had to be treated differently lest the news get back to Europe and have a depressing effect on the emigration of other potential servants. Thus, the social realities of the situation, the need for labor, and a startling growth in numbers combined to make Negroes the unfortunate group. To the Hanlins it clearly was not racial prejudice or belief in Negro inferiority that brought about an American slave system.

Carl Degler disagrees with the Handlins' thesis and attacks it at several points. Basic to his argument is the presence of discrimination between white and Negro in the early colonies.

The slave codes that finally emerged reflected the "social attitude" present from the initial introduction of Negro labor. Obviously this attitude prevailed throughout the South as slave law elaborated an increasingly degraded status for the Negro slave throughout the eighteenth and nineteenth centuries.

Two ways to conclude the unit might be effective. To encourage the student to see the implications of this research for present day racial problems, he could be asked to choose one thesis and describe its implications for racial understanding in the sixties. Or he might be asked to write an open book essay examination, agreeing or disagreeing with the statement: Slavery in America was developed in response to the need for a cheap and dependable labor force.

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Philip G. Farley
Pendleton High School
Pendleton, Oregon

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INTRODUCTION

It has been said that the central fact of Negro history in America is slavery. Implied in this statement is the notion that the historical experience of slavery has colored the attitude of other Americans toward the Negro as well as the attitude of the Negro toward himself.

A contrary view would hold that the central fact of Negro history in America is color. As long ago as the 1830's, Alexis de Tocqueville pointed out that in America "slavery is fatally united with the physical and permanent fact of color" and that even in the northern states where slavery had been abolished "slavery recedes, but the prejudice to which it has given birth is immovable." He contrasted this situation with that obtaining in ancient civilizations where, slaves being generally of the same color as their masters, the stigma of slavery was removed with emancipation, it becoming impossible to distinguish between the ex-slave and his master.

This unit focuses on the question: did prejudice against the Negro precede his enslavement and render it, when it came, the harshest known in the western hemisphere, or did prejudice and belief in the Negro's inferiority arise out of slavery?

SECTION I

THE ISSUE RAISED

In this section you will find statements by two contemporary historians who take differing views on the early beginnings of racial discrimination in the United States.

1. J. H. Russell, writing in 1913, presents his view of the beginning of servitude in Colonial Virginia:[1]

> /Russell makes the case, based on documentary evidence, that the Negroes of Colonial Virginia were considered "servants" (who could be released from servitude after a contracted period of time much the same as the White indentured servants) rather than "slaves"./

2. In 1949 W. F. Craven disagrees with Mr. Russell's interpretation:[2]

> /Craven uses various sources to help verify his position that "the trend from the first was toward a sharp distinction between (the Negro) and the White servant" and that, although slave codes were passed primarily in the 18th century rather than the 17th, the problems of slave discipline were adequately met by an "increasingly elaborate servant code."/

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[1] J. H. Russell, The Free Negro in Virginia, 1619-1865 (The Johns Hopkins Press, Baltimore, 1913), 22-25, 26.

[2] W. F. Craven, The Southern Colonies in The Seventeenth Century 1607-1689 (Louisiana State University Press, 1949), I, HISTORY OF THE SOUTH, 217-219.

SECTION II

THE NEGRO IN THE SEVENTEENTH CENTURY AMERICA

A fortuitous combination of cheap, fertile land, and easily obtained capital, gave every adventurer who came to Virginia, Maryland and a portion of the Carolinas the opportunity to become a staple raising capitalist. The only item missing from this economic equation was labor, and this was supplied throughout most of the seventeenth century by various forms of servitude. Helen Catterall[1] has identified nine categories of servants existing in this period, of which we are primarily concerned with five: ". . . the white indentured servants; the white servants without indentures; the Christian negro servants, the mulatto servants; . . . negro slaves."

When the Negro was first introduced in 1619, white servants comprised a large proportion of the population. It was not until the end of the century that the numbers of Negroes, both slave and free, equalled the number of the white servants. Thus, for most of the seventeenth century, the principal source of labor was the indentured servant who, in return for passage money, sold himself into servitude for a stipulated period of time, an average term of service being five years but longer terms, even lifetime service, being not uncommon. There were also servants, both white and Negro, who had no written contract but who served "according to the custom of the country."

This section examines in some detail the question of whether Negroes were treated differently than white servants.

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[1]Helen C. Catterall, ed., Judicial Cases Concerning the American Slavery and the Negro, (Carnegie Institution, Washington, D. C., 1926), I, 53-54.

A. Servitude and Slavery

1. Letter to the first Governor of Massachusetts from his brother-in-law, Emanuel Downing, 1645:[2]

> /Downing indicates a need for "a stock of slave sufficient to doe all our bu siness" and discusses the means of buying them./

2. The son of Emanuel Downing wrote to John Winthrop's son on August 26, 1845:[3]

> /Downing discusses the fact of Negro slaves in the Barbadoes and explains the financial advantages of having them./

3. In 1682 Dr. Samuel Wilson of South Carolina wrote:[4]

> /The question of how land can be used for financial gain so that "Negro-slaves" might be afforded is raised./

4. A historian discusses the relative advantages of Negro and white labor in the South:[5]

> /It is concluded that Negroes could handle the tasks necessary in an adequate way and were less independent, less likely to escape, and less likely to die of diseases "incident to acclimatization" than white servants, but that they were more likely to die "from nostalgia, and suicide or diseases brought with them from Africa"./

5. Comparative costs of Negro and white labor in the South:[6]

> /It is indicated that slaves were much less expensive than servants as it cost £ 18-20 for a slave for life and future generations while it cost £ 10-15 for a servant for four years. It is not, therefore, surprising that slavery supplanted servitude in Southern agriculture./

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[2] E. Donnan, Documents Illustrative of the History of the Slave Trade to America (Carnegie Institution, Washington, D. C., 1930), III, 8.

[3] Ibid., I, 125-126.

[4] L. C. Gray, History of Agriculture in the Southern United States to 1860 (Carnegie Institution, Washington, D. C., 1933), I, 352.

[5] Ibid., 361-363.

[6] Ibid., 364, 371.

6. Governor Dudley of Massachusetts to the Board of Trade, 1708:[7]

> /The Governor expresses a preference for white servants over Negroes because Negroes are not helpful in the winter months as servants and the costs of clothing in the northern plantations makes them very expensive. Furthermore, it is more difficult to recover escaped slaves on the continent./

7. Sale contract of a mulatto, seventeenth century:[8]

> Know all men by these presents that I John Endicott, Cooper, of Boston in New England, have sold unto Richard Medlicott, a Spanish Mulatto, by name Antonio, I having full power to sell for his life time, but at ye request of William Taylor, I do sell him but for ten years from ye day that he shall disembark for Virginia, the ten years to begin, and at ye expiration of ye said ten years, ye said Mulatto to be a free man to go wheresoever he pleases. I do acknowledge to have received full satisfaction of Medlicott.

8. A historian writes of the growth of the slave trade to the English Colonies:[9]

> Slavery created a new raison d'etre for the plantation system, which functioned as a colonizing agency in the introduction of African slaves no less than in the immigration of white servants. A return on the expenditure could be secured only the employment of the Negro's labor under the direction of white men. . . .
>
> The number of Negroes in Virginia and Maryland multiplied but slowly during the earlier half of the seventeenth century. There were but 23 Negroes in Virginia at the close of the Company period /1624/. Five years later a cargo captured on the African coast was brought in. According to Bruce, the evidence of the land patents seems to show that until the middle of the century the slave trade to Virginia was of casual character. In 1649 it was stated that there were only 300 Negroes in the Colony, and by 1671 . . . only 2,000 Negroes. In 1670 Culpeper wrote that some years before 500 to 600 per year had been brought in, but since then the trade had declined to small proportions. The land patents issued during this decade indicate that there was still a great preponderance in number of servants imported, but during the last decade of the century the number of Negroes greatly increased.

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[7] E. Donnan, Documents, III, 23, 24, 25.

[8] Quoted in P. A. Bruce, Economic History of Virginia in the Seventeenth Century (The Macmillan Co., New York, 1896), II, 81-82.

[9] Ibid., 351-352.

B. Attitudes Toward Negroes

1. The Somers (Bermuda) Islands were settled soon after the establishment in 1607 of a colony in Virginia, and Negroes were introduced in 1616. Following is an extract from the Acts of the Assembly of Somers Islands, 1623:[10]

(12) An Act to restrayne the insolencies of the Negroes.

> Wh[as] the Inhabitants of the Somer Islands doe complaine and p[r]sent unto this hono[ble] and graue assemblie, that the negroes who are servents to divers p.sons inhabiting in theise islands, having bene negligently looked into, and suffered to goe abroad in the nights and other unfitt tymes haue committed many trespasses against us the inhabitants aforesaid, as stealinge of piggs potatoes, poultrye and other fruit and thinges to the great losse and damage of several p.sons who cannott possible haue recompence at theire hands who have nothing where w[th] to make them any satisfaccon, and that diuers of them (to p.vent such as should pursue to apprehend them,) haue carried secretly cudgells and other weapons and working tools, very dangerous and not meete to be suffered to be carried by such vassalls. for Reform whereof be yt ennacted by the authority of this p.sent generall assemblie that if any negroe shall hereafter weare any weapon in the day tyme, or knowne to walke abroad at any undue houre in the night tyme or any other tyme or tymes go out of the way into any lands in the occupacon of any other p.son then the land of his M[r] that then the M[r] or owner of such negroe shall from tyme to tyme make full recompense to the p.son grieued for the value of all such things as the said Negroes or any of them shall purloyne steale or grable, or any other hurt or damage by them done. And shall w[th]in three dayes after demand and due proof made thereof upon pains of forfeiture of treble damage to such ptie grieued to be recouered by accon of debt, besides such corporall punishm[t] to be inflicted upon such Negroes as the lawe in such case requireth, or as the officer to whom the complainte shalbe made shall thinke fitt. Last of all that it shall not be lawfull for any negroe to buy or Sell, barter or exchange for goods Tobacco or other thinges whatsoever, without the knowledge and consent of his M[r] for the goods and Tobacco he tradeth for, upon pains of punishm[t] aforesaid.

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[10] J. H. Lefroy, ed., Memorials of the Discovery and Early Settlement of the Bermudas or Somers Islands, 1515-1685 (Longmans, Green & Co., London, 1877), I, 308-309.

2. A plot was discovered on the Bermuda Islands in 1656:[11]

Vpon the 2nd daie of November 1656 there was consultation held by the Gouernor and all his counsell about the conspiracy and plott that the negroes in this Island had contrived for cutting off and the distroieing the English in the night, w^{ch} being cleerely manifested then yt was ordered that they should come to a triall by a marshall court, whereupon there were summoned downe to Georges thes gentlemen following who were appoynted for their triall viz

Capt William Wilkinson
Capt Stephen Paynter
Capt Horatio Malary
Capt Godherd Aser
Capt William Williams
Capt fflorentia Seymer

Leiften^{t} Gualtier Abbott
Leiften^{t} John Rawlinges
Leiften^{t} John Rivers
Leiften^{t} Myles Rivers
Leiften^{t} John ffox

Their Proceeding is as ffolloweth

(1) Imprimis yt being put to the vote whether Blacke anthony M^{r} Richard Hunts negro (according to evidence giuen in) doth stand guilty of that plott and conspiracy against the English to cutt them off and destroy them. It was the unanimous vote and consent of the court that the said Blacke Anthony was Guilty

Cabilecto M^{r} Gilbert Hills negro
ffranck Jeames M^{r} Devitts negro man
Black Tom Capt Thomas Burrows his negro
Willi fforce

were all convicted in nearly the same words. It was put to the vote whether black Robin M^{r} Wisemans negro man were guilty of the conspiracy and riseing vp ag^{t} the English to destroy them. It was judged by the generall vote that he stands guilty as an accessory not as a principall. In the same terms TonyCapt Christopher Leas negro.

(2) It was also put to vote whether blacke Jacke Longson's negro, and black Harry Jonathan Turnors negro, and black _____ Capt Leas negro are guilty of the conspiracy against the English It is observed that by their confession they were instruments of the discouery of the plott in generall the court therefore doth iudg them worthy of favour of life

Nevertheles there were 9 severall negro men condemned by the Court aforesaid yet there were only 2 of the cheife actors executed, namely Black Tom the servant of Capt Thomas Burrowes who was put to death at Georges Gallowes, And the other Cabilecto, servant to

[11] Ibid., II, 94-95.

Mr. Gilbert Hill who was executed vpon a Gibbett sett vp by the Gouernors appoyntment vpon Coblers Iland

(3) William fforce condempned as accessory was carried to a Gibbett sett vp at Herne baye, wher yt was hoped he would have confessed the plott amongst the negroes. And although he was putt to yt to the uttermost yett confessed nothing, soe as the Gouernor gave orders to the sherriffee was repreived, and after sent away to Segatoo /Eleutheria/ with the rest of the free negroes, who besought the Gouernor that they might be banisht to that Iland rather than to the Indias, w^{ch} request his his worship wth his counsell did condescend vnto and were afterwards shipt awaie in the 'Blessing' bound thither

3. As a result of the conspiracy described in the previous docment, the Governor of the Somers Islands issued the following proclamation, November 6, 1656:[12]

It is knowne vnto all men who are or hath bin Inhabitants within these Islands that ther hath bin great care taken from tyme to tyme by the Gou^{r}mt here, for the suppressing of the insolencies of the negros amongst vs, and for restreineing them from night walking and meeting together, and for other inconveniences that might grow therby hoping that euery man would have bin a fellow helper in such cases as these: but falling out otherwise And these negroes seeing a general neglect, hath taken courage thereby to conspier the ruin of the whole body of these Islands, had not the Lord out of his goodnes and mercie opened the mouth of some amongst themselves to the discouery thereof. And so Justice hath proceeded accordingly, and you all see and know that, not without provision made for prevention of a ffutuer danger w^{ch} was consulted on the 2nd of this Instant month by mee and my councsell, as you observe by what is vnderwritten

(1) It is ordered that from henceforth that none of the negroes of these Islands to whomsoeuer they do belong, or of what sort soeuer they are, shall haue liberty to straggle or wander from their masters houses or lands after halfe an hour after the setting of the sunne, without a passe or tieckett vnder their handes to whom they do belonge, w^{ch} is to be granted only vpon some weighty occasion moveing therevnto But such negroes being found straggling wthout their leaues or their warrentall Tickett as aforesd, walking in the night as aforesd it shall be at the power of any English man that meets such a negro to kill him then & thiere without mercye And if any such negro shall refuse to be apprehended, and doth resist the Englishman, and he doth not make

[12] Ibid., 95-96.

speedy pursuit against him, and shall not forthwith give information to the next magistrat Then he or they for thier neglect therein shall forfeit one hundred poundes of tobacco to be expended vpon generall service

(2) It is likewise ordered that the negroes that are free men and woemen shalbe banished from these Islands, never to returne eyther by purchase of any man, or otherwise, vpon payne of forfeiting their said purchase in that case

(3) It is likewise ordered That the negroes yet remayneing amongste vs shall not be suffered to have any kind of trade or commerce wthin these Islandswth any marchant or other man or woman for any comodity whatsoeuer If any man or woman shalbe knowne or found soe trading as aforesd, contrary to the true intent hereof They shall forfeite treble the value of the comodity they so traded for

(4) It was then ordered all those who are owners of negros amongst vs and shall not hereafter cause their negroes to repaier to their parrish churches each Sabbath, or carry them along with them whithersoeuer they goe to here their ministers, but suffer them to straggle after their owne will Those owners of such negros shalbe responsible for any detriment that shall accrue thereby

(5) I doe hereby requier all manner of persons of what quality or degree soeuer they are, that they take especial notice hereof as they will answer the contrary at there severall perills

4. Extract of a letter to Lord Willoughby, Governor of the English possessions in the Caribbean, from the English company holding a monopoly on the slave trade. The date is January 10, 1662:[13]

> [The company agrees to provide "the English Plantations in America" 3000 "Negro-servants" in exchange for a specified compensation of "Money, Bills, or Sugar."]

5. Governor Bradstreet of Massachusetts to the Committee of Trade and Plantation, Boston, 1680:[14]

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[13] E. Donnan, Documents, I, 156-7.

[14] Ibid., III, 14-15.

/The Governor notes that only one shipment of Negroes had been brought to his plantation, and two or three are "now and then" brought from Barbadoes and sold for about 20 pounds each. He estimates that there are 100 or 120 blacks "within our Government."/

6. Notice from a Massachusetts newspaper of 1706:[15]

/The article enumerates arguments infavor of having white servants in the colonies rather than Negro, because of cost, reputation of character, and the need for adequate protection which white servants would more likely provide./

7. A sampling of the early court cases dealing with servitude in Virginia.[16]

/Cases are summarized which indicate greater punishment of Negro servants than white for equally serious crimes, punishment for both white and black for miscegenation, and the acquisition of children of an owner's slaves./

8. A sampling of early court cases dealing with servitude in Maryland:[17]

/The cases refer to examples of slave trade in the 17th century, the freeing of a Negro, the execution of Indians for the murder of Negroes, and the torturing of a Negro for his refusal to work./

9. An article from the Boston newspaper, The Athenian Oracle, 1701:[18]

/The article indicates that planters may think a Negro is worth twenty pounds, "but the souls of an hundred of them would not yield him one Farthing."/

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15 Ibid., 21-22.

16 Judicial Cases, I, 76-78.

17 Ibid., IV, 8, 9, 10, 11, 16.

18 Quoted in M. Jernegan, "Slavery and Conversion in the Colonies," American Historical Review, XXI (April, 1916), 516.

10. A protest issued by a group of Quakers in Germantown, Pennsylvania on April 18, 1688.[19]

> These are the reasons why we are against the traffick of mensbody as followeth: Is there any that would be done or handled at this manner? viz. to be sold or made a slave for all the time of his life? How fearful and fainthearted are many on sea when they see a strange vassel being afraid it shold be turck and sold for slaves in Turckey . . most part of such Negars are brought hither against their will and consent, and that many of them are stollen. Now tho' they are black, wecannot conceive there is more liberty to have them slaves, as it is to have other white ones. There is a saying, that we shall doe to all men licke as we will be done ourselves: macking no difference of what generation, descent, or colour they are . . . In Europe there are many oppressed for Conscience sacke; and here there are those oppressed wch are of a black Colour.

C. The Law of Slavery

1. A historian discusses the legal status of the slave.[20]

> The distinguishing mark of the state of slavery is not the loss of liberty, political and civil, but the perpetuity and almost absolute character of that loss, whether voluntary or involuntary in origin. It differs, then, from other forms of servitude limited in place or time, such as mediaeval vassalage, villainage, modern serfdom and technical servitude in degree rather than in kind; its other incidents being very similar and in many cases even identical with theirs. In the civil right of personal freedom the slave alone has no part, but in other social rights, such as personal security and the right to private property, the slave might, and in almost all historic cases did, participate to a limited extent together with the vassal, villain, serf and servant.
>
> The first negroes introduced into the North American Colonies, that is, those early brought to the Bermudas and to Virginia, do not seem to have been slaves in the strict sense of the term. As the captives, not of warfare, but of piracy, they were under the

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[19] S. W. Pennypacker, "The Settlement of Germantown and the Causes Which Led to It," The Pennsylvania Magazine of History and Biography, IV (1880), 28.

[20] J. C. Ballagh, A History of Slavery in Virginia (The Johns Hopkins Press, Baltimore, 1902), 28-34.

protection of international law in maintaining their original status, and had they been citizens of a powerful civilized community they might have received it. They were, no doubt, slaves or captives of the Spanish, but no rights of ownership, even if just, could pass to the nation by whom they were made a prize of piracy. The masters of the Dutch and English privateers, therefore, had no rights of ownership which they could legally exercise or transfer over the negroes imported until rights were recognized by the law of England or of the Bermudas and Virginia. Until this recognition came, the negroes were persons of undetermined status to whom the privileges of the common law were not specifically extended. If the term slavery can be used at all to describe their condition it is only in the sense of political as distinguished from domestic slavery; that is, dependence upon the state similar to the plebeian at Rome and the helot at Sparta, a condition from which the majority of the Virginians had as a matter of fact, though not of law, just emerged in 1619, and in which the people of the Bermudas still to a certain extent remained. Domestic slavery could find no sanction until the absolute ownership in the bodies of the negroes was vested by lawful authority in some individual. The first step in this direction was not made until 1623 in the Bermuda Islands, and it was not until 1625 that a case involving similar action arose in Virginia.

In both instances the question settled was that of ownership of the right to the services of negroes, not of their persons. In the Bermudas it was vested in individuals, and has the appearance of a full recognition of private ownership in this right. In Virginia the right was vested in an individual, but under peculiar circumstances, and as the individual was the governor of the colony, it probably involved nothing more than the legal recognition of public ownership which custom and official action had previously sanctioned in the case of former negroes. In each case the legal right conferred was that of possessio and not of dominium, and in the absence of specification to the contrary it was of limited duration and consequently lacked the most essential elements of a state of slavery. The subsequent action of the possessors shows that the legal limitations were recognized and observed.

Whatever may have been the intent and hope of the persons in possession of the negroes as regards their ultimate enslavement, no attempt to do so legally seems for a long time to have been made. Though the practice and incidents of negro and Indian slavery in the Spanish colonies were perfectly familiar to the people of Virginia, for some reason the notion of enslavement gained ground but slowly, and although the conditions surrounding a negro or Indian in possession could easily make him a de facto slave, the colonist seems to have preferred to retain him only as a servant. This was largely the result of the developing institution of servitude which in the early years of the seventeenth century adequately met the economic demands of colonial society, and for social and moral reasons was preferable to any system of slavery, and particularly to that of negroes and Indians.

The primary steps in the institutional development which culminated in slavery are then to be found in the legislation, customary and statutory, that defined that condition of persons legally known as servitude. Servitude not only preceded slavery in the logical development of the principle of subjection, standing mid-way between freedom and absolute subjection, but it was the historic base upon which slavery, by the extension and addition of incidents, was constructed. Developed itself from a species of free contract-labor, by the peculiar conditions surrounding the importation of settlers and laborers into the English-American colonies, servitude was first applied to whites and then to negroes and Indians. It began to receive legal definition as soon as colonial law became operative in 1619, at the very time that the first importations of negroes were made. It was but natural then that they should be absorbed in a growing system which spread to all the colonies and for nearly a century furnished the chief supply of colonial labor. Negro and Indian servitude thus preceded negro and Indian slavery, and together with white servitude in instances continued even after the institution of slavery was fully developed.

Virginia was not the only colony in which servitude bore this direct relation to slavery as its preparatory stage or form. Negro and Indian servitude passed historically into slavery in most of the English-American colonies, if not in all. This is certainly true of Maryland, Massachusetts, Rhode Island, Pennsylvania, Georgia, North Carolina and South Carolina. In all of these colonies statutory recognition of slavery, though tending to be anticipated by customary or judicial sanction, was postponed for sometime after the introduction of the subjects of slavery, who were consequently referred to a different status.

Most of the incidents developed in servitude were passed on to slavery, some of them modified and amplified to conform to the changed relations, but the numerous acts on the statute books applying equally to servants and slaves show that the similarity and very essential connection of the two institutions continued while they existed side by side. The period of the chief legal development of servitude was naturally prior to the recognition of slavery, but even after the transition to slavery had been effected, and through the whole time that the two institutions were coexistent, that is, for more than a century in Virginia, Massachusetts, Maryland and Connecticut, and for long periods in the other colonies, the reciprocal influence of the one on the other was marked. The general effect of this relation is to be seen in the gradual hardening of the conditions of servitude and mitigation of those of slavery, so that the form finally assumed by slavery was of a milder type than ancient, mediaeval, or even contemporary forms of that institution, while the line between servitude and slavery tended toward obliteration.

Servitude, occupying a primary position in colonial development, was as regards its principles largely the product of customary law. It was a condition unknown to the common law of England, and had to depend in the first instance for its sanction and definition on the growing body of colonial common law, supplemented by colonial statutes where unity and exactness were demanded by the growing complexity of incidents as institutional development proceeded. Owing to the simplicity of the relations of master and servant and the ability of colonial courts to regulate the rules applying to it, few statutes were called for before the middle of the seventeenth century, but from that point forward the urgent necessity for legal uniformity, now threatened by the varying practices of the judiciary, could only be met by legislative action. It was in this period of growing statutory regulation that occasion arose for strictly defining the status of slavery. Slavery consequently in Virginia, Massachusetts, and a number of the colonies rested for its earliest general sanction upon statute, and was in its future development very largely the product of statutory law. As an institution it was, like servitude, purely a colonial development not determined nor affected by the law of England, although slavery, unlike servitude, was recognized by the Mother Country and in general found a sanction in international as well as in municipal law. In this, however, Virginia and the other colonies differed from New York, where the doctrines of the civil law as enforced in Holland, and not colonial law, were first applied to sanction slavery.

2. Extract from the first legal code of Massachusetts, the first of its kind in the American colonies:[21]

> /A law entitled "Body of Liberties, 1641" gives legal sanction to slavery in Massachusetts./

3. An authority on the history of the Negro in New England comments on the significance of this code:[22]

> /It is explained that the exemption of children from bondage as implied by the statute was an oversight which was corrected in 1670./

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21 E. Donnan, Documents, IV, 4.

22 L. Greene, The Negro in Colonial New England: 1620-1776 (Columbia University Press, New York, 1942), 65.

4. 1661 saw the first enactment in Virginia which recognized legal slavery:[23]

> /The enactment makes English servants responsible for any lost time from Negro escapes with the servant./

5. Maryland enacted similar laws in 1663:[24]

> All negroes or other slaves within the province, and all negroes and other slaves to be hereafter imported into the province, shall serve durante vita; and all children born of any negro or other slave, shall be slaves as their fathers were for the term of their lives. Section 2. "And forasmuch as divers free-born English women, forgetful of their free condition and to the disgrace of our nation, do intermarry with negro slaves, by which also divers suits may arise, touching the issue of such women, and a great damage doth befall the master of such negroes, for preservation whereof, for deterring such free-born women from such shameful matches, be it enacted . . . That whatsoever free-born woman shall intermarry with any slave, from and after the last day of the present assembly, shall serve the master of such slave during the life of her husband; . . .

6. The following excerpts from Acts of Virginia further define the status of Negro slaves and are representative of acts passed in the other colonies in the late seventeenth century:[25]

> 1662 - Whereas some doubts have arisen whether children got by any Englishman upon a negro woman should be slave or free. Be it . . . that all children borne in this country shall be held bond or free, only according to the condition of the mother.
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> 1667 - Whereas some doubts have risen whether children that are slaves by birth, and by the charity and piety of their owners made pertakers of the blessed sacrament of baptisme, should by vertue of their baptisme be made free; It is enacted . . that the con-

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[23] Judicial Cases, I, 59.

[24] G. M. Stround, A Sketch of the Laws Relating to Slavery (H. Longstreth, Philadelphia, 1856), 13-14.

[25] J. C. Hurd, The Law of Freedom and Bondage in the United States (Little, Brown & Co., Boston, 1858), I, 231-232, 234, 236-237, 239, 242; Judicial Cases, I, 57.

ferring of baptisme doth not alter the condition of the person as to his bondage or freedome; that diverse masters, freed from this doubt, may more carefully endeavour the propagation of christianity by permitting children, though slaves, or those of greater growth if capable, to be admitted to that sacrament.

1669 - An act about the casuall killing of slaves.
Whereas the only law in force for the punishment of refractory servants resisting their master, mistress, or overseer, cannot be inflicted upon negroes /slaves are here meant, because the law referred to--1661--punishes such servants by extending their time/, nor the obstinacy of many of them by other than violent means be suppressed. Be it, . . . if any slave resist his master . . . and by the extremity of coercion should chance to die, that his death shall not be accounted felony, but the master . . . be acquitted from molestation, since it cannot be presumed that . . . malice . . . should induce any man to destroy his estate.

1670 - . . . it is resolved and enacted that all servants not being Christian, imported into this colony by shipping, shall be slaves for their lives; but what shall come by land shall serve, if boys or girls until thirty years of age, if men or women, twelve years and no longer.

1680 - Whereas the frequent meeting of considerable numbers of Negroe slaves under pretence of feasts and burialls is judged of dangerous consequence, -enacts that no negro or other slave shall carry arms or go from plantation without . . . /a pass/, and if such "shall presume to lift up his hand in opposition against any Christian," shall be punished with thirty lashes.

1691 - An act for suppressing outlying slaves. That such slaves shall be arrested by the sheriff or a justice's warrant; that in case of resistance, . . . "in such cases it shall and may be lawfull for such person or persons to kill and distroy such negroes, mulattoes, and other slave or slaves by gunn or any otherwaise whatsoever."

And for as much as great inconveniences may happen to this country by the setting of negroes and mulattoes free, by their entertaining negro slaves from their master's service, or receiving stolen goods, or being grown old bringing a charge upon the country; for prevention thereof, Be it . . . That no negro or mulatto be, after the end of this present session of assembly, set free by any person or persons whatsoever, unless such person. . . . pay for the transportation of such negro or negroes out of the country within six months . . ."

1705 - An act declaring the negro, mulatto, and Indian slaves within this dominion to be real estate.

1727 - An act to explain and amend the act for declaring slaves to be real estate. "Slaves to pass as chattels" . . . may be conveyed as such by will, by deed of gift or of sale.

7. A modern historian discusses the closing of a legal loophole:[26]

> /A Virginia law of 1682 is described in which "all non-Christian nationalities thereafter coming into the colony" would be made slaves./

[26] J. Russell, The Free Negro, 39.

SECTION III

SLAVERY IN ANOTHER CULTURE

Thus far the unit has examined those factors present in the English colonial experience which tended to initiate the enslavement of the Negro during the seventeenth century. Once begun, the history of this slavery showed a steady trend toward methodical suppression of all personal rights of the slave. By the middle of the eighteenth century the debasement of the Negro slave was complete.

At this point, it might be fruitful to inquire whether the system of slavery as it emerged in the English colonies was peculiar to North America or had parallel development elsewhere.

Latin America also experienced the importation of large numbers of Negro slaves, and historians have recently been comparing the two systems of slavery.

A. Slavery in Latin America

1. In a book written in 1959, the American historian Stanley Elkins commented on the nature of slavery as it developed in Spanish and Portuguese colonies:[1]

> /Elkins contrasts slavery in the Portuguese and Spanish colonies with slavery in the United States by noting that, unlike the North American slaves, slaves in Latin America were easily and often freed under numerous and different circumstances, were under the holy sacraments, had legal reprisals available to them if their master's disciplinary actions were unreasonable, could acquire and hold property, were given religious privileges, were not treated any differently if freed than white people. When full emancipation did take place, it came about "without violence, without bloodshed, and without civil war."

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[1] S. Elkins, Slavery: A Problem in American Institutional and Intellectual Life (University of Chicago Press, Chicago, 1959), 63, 72-77, 79-80.

2. A modern historian describes the law of slavery in Latin America.[2]

> /The laws pertaining to slavery in Latin America were based on ancient Spanish laws and they made it quite easy for slaves to pay their way to freedom for a fixed purchase price. Slavery was, therefore, "a matter of financial competence on the part of the slave" and the imputation of "moral or biological inferiority" was disregarded./

3. Extracts from an Edict of the King of Spain (Real Cedula of 1789) regarding the religious treatment of slaves:[3]

> /The Edict declares that slaves should be instructed in the principles of the Roman Catholic religion, should be relieved of work on holy days, should be encouraged to marry, should not be separated if married, and should consider the priest an agent who would report any wrong-doings pertaining to them./

4. In Cuba a slave tradition developed which was known as coartacion, which was part of the series of mitigations celebrated as the "Four Comforts" of the Spanish slave regime: 1. Right to free marriage; 2. Right to seek a new master if ill treated; 3. Right to purchase freedom by labor; and 4. Right to purchase freedom of family.[4]

> /It is revealed that the tradition of coartacion grew out of the need for skilled artisans, a need which Cuban slaves filled and for which they were appropriately rewarded. This is in contrast to the American Southern slave who was used primarily for unskilled field work./

B. The Implications of Cultural Comparison

1. The first historian to compare the two slave systems was Professor Frank Tannenbaum who wrote as follows in 1946:[5]

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[2]J. Tannenbaum, Slave and Citizen: The Negro in America (Random House, New York, 1946), 52-56.

[3]Sir Harry Johnston, The Negro in the New World (The Macmillan Co., New York, 1910), 43-46.

[4]Hubert H. Aimes, "Coartacion: A Spanish Institution for the Advancement of Slaves into Freedmen," Yale Review, XVII (February, 1909), 412-414.

[5]Frank Tannenbaum, Slave and Citizen, 105-107; 111-113.

> /Tannenbaum contends that there were two essential differences between the English American and Latin American slave systems: (1) The slaves in Latin America could be freed under various circumstances and thus there were numerous former slaves in the general population; (2) there was no separate class of freedmen as they were considered equals. In the United States, says Tannenbaum, the Negro was always identified with slavery and was not given equal "moral status" even after emancipation./

2. A modern anthropologist who has made numerous studies of Brazilian society comments on Frank Tannenbaum's comparison.[6]

> /Harris argues that the unique fact of Portuguese and Spanish legal codes pertaining to slavery is not explanation enough of the differences between the Latin American and English American systems, as many of the English colonies had or were developing anti-slavery codes and were based on Anglo-Saxon principles of equality. He asserts that full understanding can only come with an analysis of material conditions involved in each of the systems./

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[6] Marvin Harris, Patterns of Race in the Americas (Walker and Company, New York, 1964), 79-81.

SECTION IV

SLAVERY OR COLOR, TWO INTERPRETATIONS

Section IV presents a discussion of the unit's central problem: did racial discrimination precede the enslavement of the Negro in America or did it arise out of the experience of slavery?

From largely the same source material historians have drawn widely divergent views on this question. In the following selections two differing interpretations are given at some length.

1. Oscar and Mary F. Handlin, historians who are particularly noted for their studies of immigration and the interaction of social groups, have written the following about the origin of slavery:[1]

> /According to the Handlins, servitude in some form was common to all classes in the early colonies and in England. If the word "slave" was used occasionally for the Negro, it was also used to designate the status of Irish servants and others of low estate. The origins of Negro slavery are to be found in the southern labor system. Given the great demand for cheap labor, the enslavement of the Negro was caused not by race but simply by the fact that the blacks were strangers, an alien group with "rude manners," different standards of morality, and strange languages. Added to this was the fact that the Negro's coming had been involuntary and that whatever happened to him would not decrease the numbers of Negroes who would follow. The white servants, on the other hand, had to be treated differently lest the news get back to Europe and have a depressing effect on the emigration of other potential servants. Thus, the social realities of the situation, the need for labor, and a startling growth in numbers combined to make Negroes the unfortunate group. To the Handlins it clearly was not racial prejudice or belief in Negro inferiority that brought about an American slave system./

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[1] Oscar and Mary F. Handlin, "Origins of the Southern Labor System" William and Mary Quarterly, VII (April, 1950), 199, 201-211, 213-215, 217-219, 221-222.

2. Carl N. Degler, another well known historian, disagrees with the interpretation presented by the Handlins:[2]

> /Degler disagrees with the Handlins' thesis and attacks it at several points. Basic to his argument is the evidence of discrimination between white and Negro in the early colonies, and he cites several examples of this evidence. He argues that the slave codes that finally emerged reflected the "social attitude" present from the initial introduction of Negro labor. He contends that it is obvious that this attitude toward the Negro prevailed throughout the South as slave laws elaborated an increasingly degraded status for the Negro slave throughout the 18th and 19th centuries. He concludes that "the discrimination had begun long before slavery had come upon the scene."

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[2] Carl N. Degler, "Slavery and the Genesis of American Race Prejudice," Comparative Studies in Society and History (Mouton and Company, The Hague, 1958-1959), II, 50-54, 55-66.

SUGGESTIONS FOR FURTHER READING

The question of the origins of slavery has received little attention in historical writing aside from those selections included in the unit. The first historian to challenge the belief that slavery began with the introduction of the Negro in 1619 was James C. Ballagh, History of Slavery in Virginia (Johns Hopkins, Baltimore, 1902). James Russell followed this with his Free Negro in Virginia (Johns Hopkins, Baltimore, 1913).

For general works on slavery see U. B. Phillips, American Negro Slavery (D. Appleton, New York, 1918) and Kenneth Stampp, The Peculiar Institution (A. Knopf, New York, 1956).*

For comparative treatment of systems of slavery, the pioneering work is Frank Tannenbaum, Slave and Citizen: The Negro in the Americas (Random House, New York, 1946).* Following his lead, Stanley Elkins takes the comparative method a step farther in Slavery: A Problem in American Institutional and Intellectual Life (Grosset and Dunlap, New York, 1963).* Also of interest for contemporary Negro history linked to slavery is Charles E. Silberman, Crisis in Black and White (Random House, New York, 1946).*

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*Available in paperback.